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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,103	11/20/2003	Guillermo Guim	58926-010200	1102
33717	7590	01/11/2006		
GREENBERG TRAUIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			EXAMINER GRAYSAY, TAMARA L	
			ART UNIT 3636	PAPER NUMBER
DATE MAILED: 01/11/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,103

Applicant(s)

GUIM, GUILLERMO

Examiner

Tamara L. Graysay

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 3, 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 3: the claim is confusing as it is presented in that the phrase [setting whereby the covering is occurred] is not clear as to what is meant by setting. The claim has been interpreted as not further limiting the structure of the protector, but rather only further functional limitations with respect to an intended use of the protector.

b. Claim 5: [are of greater diameter, more specifically, at the principal lower vertex] has been treated as meaning that the lateral ends of the principal body converge at the upper ends as depicted in the Figures. This interpretation is believed to be consistent with the intended meaning of the claim. Applicant must amend the claim to eliminate the incomplete size comparison (greater), the range within a range (more specifically), and provide clear antecedent basis for the claim terms including support for “diameter.”

However, applicant should review the specification, which reads-in-part, “The lateral sections (4) start at the lateral ends of the upper area which are of a lesser diameter than the principal body (1). This language does not appear to support the claim scope.

Further, the use of the term “diameter” does not appear to be accurate because the

Art Unit: 3623

protector is not round, spherical, or cylindrical. The inconsistency should be clarified in response to this Office action. Applicant must take care to not add new matter.

c. Claim 6: [the lateral ends are connected at the upper ends] has been treated as the lateral sections are connected at upper lateral ends of the principal body. This interpretation is consistent with the intended claim meaning and eliminates the confusion of lateral ends (unnumbered converging sides of body 1), which are part of the principal body (1), being *connected to* the principal body.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Peckham (US-6705337).

Claim 1: Peckham teaches a protector including a principal body (12, 14), lateral sections (16), and curved sections (integral with 14 as depicted in FIG. 3). The curved sections are joined with the lateral sections (16) at the gap (44).

Claim 2: The protector includes a safety belt (20).

Claim 4: The protector is manufactured of sun protector cloth [3:40-41].

Claim 5: The lower end (near reference character 40) of the principal body is wider than the upper end (near reference characters 42) of the principal body as depicted at the top of Fig. 3.

Claim 6: The lateral sections (16) are integrally connected at the upper ends of the principal body.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peckham (US-6705337) in view of Hughey (US-6223760).

Hughey teaches a flap (16) in the lateral section of the protector that is for setting within the interior of the vehicle door [2:33-40] so that a would-be thief is thwarted from stealing the protector [3:5-8].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lateral section of Peckham to include a flap for introduction within the interior of a vehicle door, such as taught by Hughey, in order to secure the protector to the vehicle thereby preventing theft.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-
- Glasgo teaches a protector including a principal body (12, 30, 26), lateral sections (34, 44), and curved sections (42, 56). The curved sections are joined to the lateral sections and the principal body. The principal body is permanently or removably attached to the vehicle [4:1-8].
- Chiang in FIG. 11 teaches a protector including a principal body (46), lateral sections (44F, 44G), curved sections (integrally joined to lateral sections 44F, 44G, and joined by a closure to the principal body 46C at the wider lower end).
- Kraus teaches a protector.
- Cunningham teaches a protector having separate body and lateral sections that are joined together.
- Kashino teaches safety belts fixed to the vehicle.
- Morgan teaches pennants or tabs (13, 14, 15) for fixing the protector to the vehicle.
- Hanania teaches a protective cover.
- Abodeely teaches a protector including belts (22) for fixing the protector to the inside of the vehicle.
- Cohen teaches a protector.
- Poirier teaches a protector including lateral sections (24) and a principal body (22).
- Fleischhauer teaches a protector for fixing inside the vehicle.


Art Unit: 3623

- Persinger teaches protector including an integral principal body, lateral sections, and curved sections.
- Wright teaches a protector including sections joined together at the principal body and curved sections, and the curved sections are integral with the principal body at the front fender area (FIG. 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/30/05
Tamara L. Graysay
Examiner
Art Unit 3623

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